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UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

DONALD R. CAMERON, *et al.*  
Plaintiffs  
v.  
APPLE INC.,  
Defendant.

Case No. 4:19-cv-03074-YGR

**DECLARATION OF CAELI A. HIGNEY IN  
SUPPORT OF DEVELOPER PLAINTIFFS'  
ADMINISTRATIVE MOTION TO  
CONSIDER WHETHER ANOTHER  
PARTY'S MATERIALS SHOULD BE  
SEALED**

1 Pursuant to Civil Local Rule 79-5, I hereby declare as follows:

2       1. I am an attorney licensed to practice in the State of California, and a member of the Bar  
 3 of this Court. I am a partner at the law firm Gibson, Dunn & Crutcher LLP, counsel of record for  
 4 Defendant Apple Inc. (“Apple”) in this case. I am familiar with Apple’s treatment of highly proprietary  
 5 and confidential information, based on my personal experience representing Apple.<sup>1</sup> I have personal  
 6 knowledge of the facts stated below and, if called as a witness, I could and would testify competently  
 7 thereto.

8       2. I submit this declaration in support of Plaintiffs’ Administrative Motion to Consider  
 9 Whether Another Party’s Material Should Be Sealed (Dkt. 490) in connection with the Third  
 10 Supplemental Declaration of Steven Platt (Dkt. 489).

11      3. Apple operates in an intensely competitive marketplace. It occupies a unique position  
 12 as a leader with respect to a number of highly dynamic technologies. Apple has serious and legitimate  
 13 concerns that competitors will exploit any release of Apple’s highly sensitive, proprietary information  
 14 in order to gain competitive advantage. As such, Apple takes extensive measures to protect the  
 15 confidentiality of its proprietary information.

16      4. When a party seeks to seal records in connection with a dispositive motion, there is a  
 17 “strong presumption in favor of access” that can be overcome by “compelling reasons.” *Kamakana v.*  
*City & County of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quotation marks omitted); *see also*  
*In re Anthem, Inc. Data Breach Litig.*, No. 15-MD-02617-LHK, 2017 WL 9614789, at \*2 (N.D. Cal.  
 20 Aug. 25, 2017) (applying standard to class settlements); *Thomas v. MagnaChip Semiconductor Corp.*,  
 21 No. 14-CV-01160-JST, 2017 WL 4750628, at \*4 (N.D. Cal. Oct. 20, 2017) (same); *Cotter v. Lyft, Inc.*,  
 22 No. 13-CV-04065-VC, 2016 WL 3654454, at \*1 (N.D. Cal. June 23, 2016) (same). Here, such  
 23 “compelling reasons” exist for Apple’s limited sealing request.

24  
 25      1 Courts in this District routinely grant motions to seal on the basis of declarations of counsel  
 26 submitted pursuant to Local Rule 79-5. *See, e.g., In Re Qualcomm Litig.*, No. 17-00108, Dkt. 398-  
 27 1 (S.D. Cal. Mar. 3, 2018); *Avago Techs. U.S. Inc., et al. v. Iptronics Inc., et al.*, No. 10-02863-  
 28 EJD, Dkt. 544 (N.D. Cal. Apr. 3, 2015); *Cisco Sys., Inc., et al. v. Opentv Inc., et al.*, No. 13-00282-  
 EJD, Dkt. 76 (N.D. Cal. Oct. 8, 2018). I am personally familiar with Apple’s safeguarding of  
 proprietary information, but if the Court deems this declaration insufficient, Apple respectfully  
 requests that it be permitted to file a further declaration supporting filing under seal.

1       5. Specifically Apple seeks only to seal information about the number of developers and  
 2 amounts of projected disbursements in each settlement class tier. Apple maintains the confidentiality  
 3 of this information (and/or the information it is based on), including because its public disclosure would  
 4 assist Apple's competitors in gauging revenues earned by various discrete segments of the App Store  
 5 developer population and in competing with Apple for the participation of those developers in software  
 6 marketplaces. Accordingly, public disclosure of this information would cause Apple economic harm  
 7 and put it at competitive disadvantage. *See Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092,  
 8 1097 (9th Cir. 2016), *cert. denied sub nom. FCA U.S. LLC v. Ctr. for Auto Safety*, 137 S. Ct. 38 (2016)  
 9 (finding there was a compelling reason for sealing when records contain business information that  
 10 could be used to harm a litigant's competitive standing); *see also Apple Inc. v. Samsung Electronics*  
 11 *Co., Ltd.*, 727 F.3d 1214, 1225 (Fed. Cir. 2013) (concluding the district court abused its discretion in  
 12 denying a motion to seal information that would put parties "at a competitive disadvantage compared  
 13 to their current position").

14       6. The information Apple seeks to protect is an important aspect of its business, and Apple  
 15 has exerted great effort and undertaken substantial expense to protect such information. Apple has  
 16 narrowly tailored its sealing request so as to maximize the public's access to court proceedings without  
 17 jeopardizing Apple's business interests.

18       7. The information that Apple now requests to seal is similar to the information the Court  
 19 sealed in Figure 10 at page 39 of the Expert Report of Lorin M. Hitt, PhD. in opposition to class  
 20 certification in this action. *See* Dkt. 376-4 (sealed report); Dkt. 458 at 16 (sealing granted); Dkt. 462-  
 21 7 (redacted report).

22       8. Below is a chart detailing the specific items of Apple's, also highlighted in the sealed  
 23 documents filed at Dkt. 490, that are sealable for the reasons explained herein.

Document	Description or Pages & Lines	Reason for Redaction
Third Supplemental Declaration of Steven Platt of Angeion Group	Page 2, Lines 21-22	This portion of the declaration should be sealed because it contains non-public and competitively sensitive information.
Ex. A to Third Supplemental Declaration of Steven Platt of Angeion Group	The numbers in the second, third, fifth, seventh, and ninth columns of the second, third, fourth, and fifth tables at Page 2.	These portions of the exhibit should be sealed because they contain non-public and competitively sensitive information.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this Declaration was executed on June 10, 2022 at San Francisco, California.

*/s/ Caeli A. Higney*  
Caeli A. Higney